

ENTERED

March 27, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BAKER HUGHES OILFIELD
OPERATIONS, LLC

Plaintiff,

VS.

INNOVEX DOWNHOLE SOLUTIONS, INC.,

Defendant.

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CIVIL ACTION NO. H-18-2236

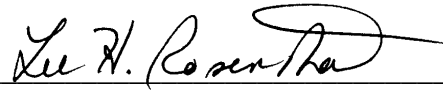
ORDER

In November 2018, Innovex moved for a stay while the Patent Trial and Appeal Board considered whether to grant *inter partes* review of the ‘439 Patent. (Docket Entry No. 65). The court then declined to stay the case, without prejudice, permitting the parties to seek a stay if the Patent Board chose to institute review. (Docket Entry No. 78). Because Baker Hughes responded to Innovex’s *inter partes* petition on January 16, 2019, the Patent Board must decide whether to institute review by April 16, 2019. 35 U.S.C. § 314(b); (Docket Entry No. 84). The parties have filed claim-construction briefs on the disputed terms. (Docket Entry Nos. 86, 91). A *Markman* hearing is set for April 17, 2019.

If the Patent Board chooses to institute review, a stay may be warranted while the Patent Board considers claim validity. *See NFC Tech. LLC v. HTC Am., Inc.*, No. 13-CV-1058-WCB, 2015 WL 1069111, at *6 (E.D. Tex. Mar. 11, 2015) (“[C]ourts have been nearly uniform in granting motions to stay proceedings in the trial court after the [Patent Board] has instituted *inter partes* review proceedings.”). To give the parties and the court time to assess the Patent Board’s decision on *inter partes* review and whether that decision warrants a stay, the court reschedules the *Markman*

hearing for **May 16, 2019, at 8:30 a.m.** The parties are to promptly notify the court of the Board's decision and the parties' views on whether a stay is appropriate and, if so, for how long.

SIGNED on March 27, 2019, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge